

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

(5) CESAR RESHAWN MARTINEZ,
Defendant.

W-05-CR-00075-ADA

REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

**TO: THE HONORABLE ALAN D ALBRIGHT,
UNITED STATES DISTRICT JUDGE**

This Report and Recommendation is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges. Before the Court is Defendant's oral Motion for release made during the August 22, 2023 hearing. After careful consideration of the arguments of counsel and the applicable law, the Court **RECOMMENDS** that Defendant's Motion be **GRANTED** and he be **RELEASED** from the custody of the U.S. Marshals.

I. DISCUSSION

Mr. Martinez was in custody pursuant to a writ of habeas corpus ad prosequendum while serving time on state charges. While in custody, his term of supervised release expired without his term of supervised release being revoked. Defendant made an oral motion during the August 22, 2023 hearing for his release. The Government did not oppose the motion.

II. RECOMMENDATION

For the above reasons, it is the **RECOMMENDATION** of the United States Magistrate Judge to the United States District Judge that Defendant's Motion be **GRANTED** and he be released from the custody of the U.S. Marshals.

III. OBJECTIONS

The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v Arn*, 474 U.S. 140, 150–53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150–53; *Douglass*, 79 F.3d at 1415.

SIGNED this 22nd day of August, 2023.


DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE